IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

WP(C).No. 9507 of 2004(F)

PETITIONERS:

1. **T.G.SUNIL KUMAR, W/O.LATE NJANASEELAN, THUMPUNKAL HOUSE, VAKATHANAM VILLAGE AND POST, KOTTAYAM TALUK.**
2. **T.G.SURESH, S/O.LATE NJANASEELAN, THUMPUNKAL HOUSE, VAKATHANAM VILLAGE AND POST, KOTTAYAM TALUK.**
3. **R.SREEDEVI, KOLAKKULAM HOUSE, KADUVAKKULAM COLONY, KOLLADU POST, KOTTAYAM TALUK.**
4. **BIJU SUKUMARANA, KOLAKKULAM HOUSE, KADUVAKKULAM COLONY, KOLLADU POST, KOTTAYAM TALUK.**
5. **M.R.KRISHNAKUTTY, NADUKKAYIL HOUSE, PONGANTHANAM POST, CHANGANCHERRY TALUK.**
6. **T.J.SANTHAMMA,W/O.KRISHNANUTTY, NADUKKAYIL HOUSE, PONGANTHANAM POST, CHANGANACHERRY TALUK.**

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENTS:

1. **THE REGIONAL MANAGER, KERALA STATE DEVELOPMENT FOR SCHEDULED CASTE AND SCHEDULE TRIBE LIMITED, KOTTAYAM.**
2. **KERALA STATE DEVELOPMENT CORPORATION FOR SCHEDULED CASTE AND SCHEDULED TRIBE LIMITED AT TRISSUR, REP. BY ITS MANAGING DIRECTOR.**

3. THE DEPUTY TAHSILDAR, REVENUE RECOVERY SECTION, CHANGANACHERRY.

4. THE VILLAGE OFFICER, THOTTAKKADU VILLAGE THOTTAKKADU POST, KOTTAYAM DISTRICT.

5. THE VILLAGE OFFICER, PANACHIKKAD VILLAGE PANACHIKKAD POST, KOTTAYAM DISTRICT.

6. THE VILLAGE OFFICER, VAKATHANAM VILLAGE, VAKATHANAM POST, KOTTAYAM DISTRICT.

BY ADV. SRI.M.K.CHANDRAMOHAN DAS,SC FOR SC/ST CO
BY GOVERNMENT PLEADER SMT.SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.9507/2004

APPENDIX

PETITIONERS EXHIBITS

EXT.P1:- COPY OF THE REGISTERED LETTER DT. 30.5.93 OF PETITIONERS 1 TO 4 FORWARDED TO SECOND RESPONDENT.

EXT.P2:- COPY OF THE REGISTERED LETTER DT. 24.12.93 OF PETITIONERS 1 TO 4 FORWARDED TO 2ND RESPONDENT.

EXT.P3:- COPY OF THE REGISTERED LETTER DT. 22.5.95 OF PETITIONERS 1 TO 4 FORWARDED TOP 2ND RESPONDENT.

EXT.P4:- COPY OF THE LETTER DT. 29.1.96 OF PETITIONERS 1 TO 4 FORWARDED TO 1ST RESPONDENT.

EXT.P5:- COPY OF THE DEMAND NOTICE DT. 12.7.01 OF 3RD RESPONDENT SERVED TO 1ST PETITIONER UNDER SEC. 7 OF THE K.R.R. ACT.

EXT.P5(a):- COPY OF THE DEMAND NOTICE DT. 17.7.01 OF 3RD RESPONDENT COMMUNICATED TO 1ST PETITIONER UNDER SEC-34 OF THE K.R.R.ACT.

EXT.P6:- COPY OF THE DEMAND NOTICE DT. 12.7.01 OF 3RD RESPONDENT COMMUNICATED TO 2ND PETITIONER UNDER SECTION - 7 OF K.R.R. ACT.

EXT.P7:- COPY OF THE DEMAND NOTICE DT. 19.6.01 OF 3RD RESPONDENT COMMUNICATED TO 3RD PETITIONER UNDER SECTION- 7 OF THE K.R.R.ACT.

EXT.P8:- COPY OF THE DEMAND NOTICE DT. 19.6.01 OF 3RD RESPONDENT COMMUNICATED TO 4TH PETITIONER UNDER SECTION- 7 OF THE K.R.R.ACT.

EXT.P9:- COPY OF THE PETITIONER'S COMPLAINT DT. 10.8.01 FORWARDED TO 2ND RESPONDENT.

EXT.P10:- COPY OF THE NOTICE NO.108/0102/D7 DT. 24.9.03 OF 3RD RESPONDENT COMMUNICATED TO 1ST PETITIONER.

EXT.P10(a):- COPY OF THE NOTICE NO. 110/2001-02/D7 DT. NIL OF 3RD RESPONDENT COMMUNICATED TO 5TH PETITIONER.

EXT.P10(b):- COPY OF THE LETTER NO.112/01-02/D7 DT. 24.9.03 OF 3RD RESPONDENT COMMUNICATED TO 6TH PETITIONER.

EXT.P11 SERIES:- COPY OF THE POSTAL RECEIPT DT. 1.6.93 EVIDENCING THE REGISTRATION OF EXT.P1 LETTER TO RESPONDENTS 1 AND 2.

EXT.P12:- COPY OF THE BILL NO.50 DT. 27.4.03 ISSUED BY CONTROL ZEE COMPUTER SYSTEM (PVT) LTD. AT TRISSUR, TOWARDS 2ND SALE OF STABILIZER FOR RS. 6450/-.

/TRUE COPY/

P.A. TO JUDGE

ss

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 9507 of 2004

Dated, this the 20th day of November, 2007

J U D G M E N T

Petitioners 1 to 4 have availed loan from the 2nd respondent for starting a commercial centre with computer, photocopier etc. Petitioners 5 & 6 are guarantors for the loan. According to the petitioners, the business was unsuccessful, partly on account of belated delivery of accessories for the computer, and unit was closed after one year from the date of commencement of the business. Even though, petitioners offered to surrender the equipment before the 1st respondent in 1994, he did not take over the articles, is the case of the petitioners. However, respondents 1 & 2 have denied the claim of the petitioners. Petitioners have not produced loan agreement and have not established in the Court that respondents 1 & 2 are bound to take over the articles and if so, at what cost. In any case, since default is committed, recovery can be continued against the defaulters and against the guarantors. However, since business was unsuccessful and closed, I grant an opportunity to the petitioners to settle liability without any penal or default or compounding interest, but on payment of simple interest

at contract rate along with the loan amount. The petitioners are granted time till 30/05/2008 to settle the liability, failing which respondents are free to proceed for recovery of full arrears.

This writ petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg